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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 18 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Section 9)
of the Communications Act)

Assessment and Collection of)
Regulatory Fees for the 1994)
Fiscal Year)

MD Docket No. 94-19

To: The Commission

Reply Comments

Young & Jatlow, ("Y&J") on behalf of various clients involved in the resale of telecommunications services respectfully submits its reply comments in the above-captioned proceeding. In support thereof, Y&J states the following:

In this proceeding more than 40 separate sets of comments were received on a variety of issues relating to the Commission's Notice of Proposed Rulemaking¹ to implement Section 9 of the Communications Act of 1934, added by Section 6003(a) of the

¹ Implementation of Section 9 of the Communications Act-- Assessment and Collection of Regulatory Fees for the Fiscal Year 1994, MD Docket No. 94-19, FCC 94-46, released March 11, 1994 (hereinafter "NPRM").

Omnibus Budget Reconciliation Act of 1993.² Only one party filing comments in this proceeding mentioned the status of resellers in the context of the NPRM. Specifically, in discussing the use of "multipliers" for CAPs, MCI requested the Commission to rule that resellers of common carrier services should be required to pay regulatory fees.³ For the reasons set forth below, Y&J asserts that subjecting resellers to the payment of annual regulatory fees at this point was not contemplated by Section 9.

Congress, not the FCC, specifically developed the statutory schedule of fees in Section 9(g). Though the Section 9(g) schedule of fees is very detailed and was based on information submitted to it by the Commission, it does not include a category for resellers. Moreover, even if one assumed that resellers would fall into one of the "Carrier" categories, resellers do not necessarily have "presubscribed access lines" or "access lines" further suggesting that Congress did not intend for resellers to be included in the list of entities to be subject to annual

² Pub. L. No. 103-66, Title VI, Sec. 6002(a), 107 Stat. 397 (approved August 10, 1993).

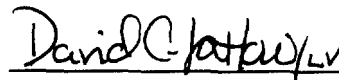
³ See, Comments of MCI Telecommunications Corp. in MD Docket No. 94-19 at 5.

regulatory fees. Therefore, the FCC should use the NPRM to clarify that common carrier resellers are specifically exempt from paying regulatory fees for Fiscal Year 1994.

To the extent that Congress inadvertently failed to include resellers as being subject to the annual regulatory fee payment, the better course of action is to propose adjustments to the Commission's rules for fiscal years beyond 1994.

Respectfully submitted,

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April 18, 1994

CERTIFICATE OF SERVICE

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